

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 4:05-CV-329-GKF-PJC
	:	
TYSON FOODS, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	

**STATE OF OKLAHOMA’S MOTION TO EXPEDITE CONSIDERATION
OF MOTION FOR SANCTIONS DIRECTED TO CARGILL DEFENDANTS
FOR DISCOVERY MISCONDUCT [DKT #2459]
WITH REQUEST FOR ORAL ARGUMENT**

Plaintiff, the State of Oklahoma (hereinafter “the State”), respectfully requests the Court to expedite consideration of its Motion for Sanctions Directed to the Cargill Defendants for Discovery Misconduct dated August 12, 2009 (Dkt. #2459).¹ Such Motion seeks, among other things:

- (1) direct that, for the purposes of this action — including trial — it shall be established fact that Cargill has placed poultry waste in a location where it is likely to cause runoff or pollution of the State’s waters;
- (2) prohibit Cargill from introducing evidence or argument that it or its independent contractors have not placed any poultry waste in a location or locations where it is likely to runoff or pollute the State’s waters; and
- (3) prohibit Cargill from introducing evidence or argument that the State lacks evidence of Cargill-specific waste disposal practices or causation.

¹ The State filed its Motion on August 12, 2009. (Dkt. #2459.) On August 18, 2009, the Court referred the Motion to Magistrate Judge Cleary. (Dkt. #2471.) The Cargill Defendants moved for an extension of time to file their opposition brief. (Dkt. #2524.) The Court granted such extension, ordering that the Cargill Defendants’ response be filed no later than seven (7) days following their receipt of the August 13, 14 and 18, 2009 hearing transcripts. (Dkt. #2526.) On September 10, 2009, such Defendants filed their response. (Dkt. #2598.)

Expedited consideration is warranted because such Motion seeks relief that, if granted, would affect the presentation of evidence at trial, which is currently scheduled to commence on September 21, 2009. The State also respectfully requests that this matter be set for oral argument at the Court's earliest convenience.

The State intends to file a reply brief in further support of its Motion for Sanctions on September 14, 2009 in advance of the deadline provided for by the Local Rules.

Plaintiff has conferred with counsel for the Cargill Defendants, John Tucker, Esq., who indicates that such Defendants have no objection to the State's request for expedited consideration, but they do object to the State's request for oral argument.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2009, I electronically transmitted the above and foregoing pleading to the Clerk of the Court using the ECF System for filing and a transmittal of a Notice of Electronic Filing to the following ECF registrants:

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